

ARLO Deadline Calendar
Week of March 25, 2019

NEW CASES, NOTICES OF CITIZEN SUIT, and PETITIONS NEW CASES

NEW CASES

- *WildEarth Guardians v. EPA*, No. 1:19-cv-00897-JLK (D. CO) (failure to make a determination on whether the Denver Metro-North Front Range Area of Colorado complied with the 2008 National Ambient Air Quality Standards (NAAQS) for ozone by the attainment date of July 20, 2018) (Kaytrue Ting)
- *Center for Biological Diversity, et al. v. EPA*, No. 4:19-cv-01544-KAW (N.D. CA) (alleging that EPA failed to perform its mandatory duties to reclassify to serious the West Central Pinal (AZ) 2006 24- hour PM2.5 Nonattainment Area, to promulgate a FIP and impose sanctions for Arizona's NSR program defects, and to make findings of failure to submit for the Provo and Salt Lake City, Utah serious 2006 24-hour averaging time PM2.5 Nonattainment Areas) (Stephanie Hogan)

NOTICES OF CITIZEN SUIT

- NOI dated March 5 from the Center for Biological Diversity alleging that EPA failed to fulfill several specific mandatory duties related to PM and ozone SIPs in Region 9. (Derek Mills)

PETITIONS

- Title V petition to object to the operating permit for the Newark Bay Cogeneration Partnership LP power plant, Newark, New Jersey, 07105 submitted by Ironbound Community Corporation (Michael Lee)

NEW DECISIONS and SETTLEMENTS

UPCOMING LITIGATION and COURT-ORDERED AND RELATED DEADLINES

UPCOMING LITIGATION DEADLINES

- 03/25 EPA Response Brief
Renewable Fuels Association, et al. v. EPA, No. 18-9533 (10th Cir.) (petition for review of EPA's final actions issued for Extensions of Small Refineries Temporary Exemptions Under the Renewable Fuels Standard Program for HollyFrontier Corp.'s Woods Cross; Utah Refinery (December 2017); HollyFrontier Corp.'s Cheyenne; Wyoming Refinery (May 2017) and Wynnewood Refining Company; LLC's Wynnewood; Oklahoma Refinery (2018) (Susan Stahle)
- 03/25 Certified Index of the Record
Center for Biological Diversity, et al. v. EPA, No. 19-70340 (9th Cir.) (petition for review of EPA's final action entitled "Clean Air Act Prevention of Significant Deterioration Permit Issued to Palmdale Energy LLC for the Palmdale Energy Project" at 83 Fed. Reg. 63,638 (Dec. 11, 2018)) (John Krallman, Mark Kataoka)

- 03/27 EPA Respondent Brief Due
Chesapeake Climate Action Network, et al. v. EPA, No. 15-1015 (D.C. Cir.) (Petition for review of EPA's final action entitled: Reconsideration of Certain Startup/Shutdown Issues: National Emission Standards for Hazardous Air Pollutants From Coal- and Oil Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units, 79 Fed. Reg. 68,777 (November 19, 2014)) (Paul Versace)
- 04/01 Status Report
State of Texas, et al. v. EPA, No. 16-60118 (5th Cir.) (Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans, Texas and Oklahoma, Regional Haze State Implementation Plans, Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze, Federal Implementation Plan for Regional Haze, Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016)) (Daniel Schramm, Nora Greenglass)
- 04/01 Status Report
State of Texas, et al. v. EPA, No. 16-1078 (DC Cir.) (Petition for review of EPA's final action titled "Approval and Promulgation of Implementation Plans, Texas and Oklahoma, Regional Haze State Implementation Plans, Interstate Visibility Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze, Federal Implementation Plan for Regional Haze, Final Rule," 81 Fed. Reg. 296 (Jan. 5, 2016)) (Daniel Schramm, Nora Greenglass)
- 04/01 Oral Argument (Panel: Rogers, Wilkins and Silberman)
California Communities Against Toxics, et al. v. EPA, No. 18-1085 (DC Cir.) (MACT MAJOR TO AREA/ONCE-IN-ALWAYS-IN MEMORANDUM LITIGATION - Memorandum from William Wehrum, dated January 25, 2018, entitled "Issuance of Guidance Memorandum, 'Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act' and Federal Register notice published at 83 Fed Reg 5543 (Feb. 8, 2018) (Scott Jordan)
- 04/01 Status report
Sierra Club v. EPA, No. 14-1110 (DC Cir) (Petition for review of EPA's final actions to promulgate an affirmative defense against civil penalties in cases of malfunction in several Federal Register notices - based on after-arising grounds in *Natural Resources Defense Council v. EPA*; No. 10-1371; 2014 WL 1499825 (D.C. Cir. Apr. 18; 2014); which for the first time held that Respondents lack authority to promulgate an affirmative defense against civil penalties.) (Sheila Igoe)
- 04/02 EPA's Reply in Support of its Cross-Motion for Summary Judgment
State of California, et al. v. EPA, No. 4:18-cv-03237-SK (N.D. CA) (for failure to enforce the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (Karen Palmer)
- 04/03 Status Report
State of Texas, et al. v. EPA, No. 17-60088 (5th Cir.) (Petition for review of final action entitled "Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard—Supplement to Round 2 for Four Areas in Texas: Freestone and Anderson Counties, Milam County, Rusk and Panola Counties, and Titus County," 81 Fed. Reg. 89,870 (Dec. 13, 2016)) (Andrea Carrillo)

- 04/08 EPA Brief
State of California, et al. v. EPA, No. 18-1114 (D.C. Cir.) (petition for review of EPA's final action titled "Mid-Term Evaluation of Greenhouse Gas Emissions Standards for Model Year 2022-2025 Light-Duty Vehicles" at 83 Fed. Reg. 16,077-87 (Apr. 13, 2018)) (Mark Kataoka)
- 04/08 Combined Opposition to Plaintiffs' Motion for Summary Judgment and Cross-Motion for Summary Judgment
Center for Biological Diversity, et al. v. EPA, No. 3:18-cv-03544 (N.D. CA) (Alleging failure to take action on 17 pending 2010 SO₂ SIPs for nonattainment areas in 9 states (Florida, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, West Virginia, and Wisconsin) and failure to issue findings of failure to submit regarding 2 overdue 1972 SO₂ SIPs for nonattainment areas in 2 states (Arizona and New Jersey) (Mike Thrift)
- 04/09 Status Report
American Petroleum Institute, et al. v. EPA, No. 13-1108 (DC Cir.) (Petition for review of 2012 oil and gas NSPS revision (bifurcated from challenge to 2012 NESHAP and consolidated with challenges to 2014 NSPS amendment and 2016 NSPS setting methane standards)) (Amy Branning)
- 04/09 Status Report
National Parks Conservation Association, et al. v. EPA, No. 17-1253 (D.C. Cir.) (challenge to reaffirmation of CSAPR>BART/ the Texas Remand Rule) (Daniel Schramm)
- 04/09 Status Report
State of West Virginia, et al. v. EPA, No. 15-1363 (D.C. Cir.) (CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." at 80 Fed. Reg. 64, 662 (October 23, 2015)) (Scott Jordan)
- 04/10 Status Report
State of Arkansas v. EPA, No. 16-4270 (8th Cir.) (Petition for review of EPA's regional haze FIP for Arkansas, 81 Fed. Reg. 66,332) (September 27, 2016) (Nora Greenglass)
- 04/12 Parties shall appear for a status hearing to discuss the progress of this case.
State of New York, et al. v. EPA, No. 1:18-cv-00773 (D. D.C.) (for failure to establish guidelines for standards of performance for methane emissions from existing oil and gas operations) (Amy Branning, Derek Mills)
- 04/14 Status Report
National Environmental Development Association's Clean Air Project v. EPA, No. 17-1016 (D.C. Cir.) (petition for review challenging revisions to the refrigerant management regulations under CAA section 608) (Melina Williams)
- 04/15 Status Report
Murray Energy Corporation v. EPA, No. 16-1127 (DC Cir.) (petition for review of EPA's final action entitled "Supplemental Finding that it is Appropriate and Necessary to Regulate Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units at 81 Fed. Reg. 24,420 (April 25, 2016)) (Karen Bianco, Kaytrue Ting)

- 04/15 Status Reports
National Waste & Recycling Association, et al. v. EPA, No. 16-1372 (DC Cir.) (petition for review of EPA's final rule entitled "Standards of Performance for Municipal Solid Waste Landfills." at 81 Fed. Reg. 59; 332 (Aug. 29, 2016)) (Karen Palmer)
- 04/15 Status Report
National Waste & Recycling Association, et al. v. EPA, No. 16-1371 (DC Cir.) (Petition for review of EPA's final action entitled "Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills; Final Rule." at 81 Fed. Reg. 59; 276 (Aug. 29, 2016)) (Karen Palmer)
- 04/15 Status Report
Sierra Club v. EPA, No. 1:17cv2174 (D. DC) (for failure to conduct triennial reports to congress on Environmental and Conservation Impacts of the Renewable Fuel Standard and failure to conduct Anti-Backsliding Analysis or determine if mitigation measures are necessary) (Seth Buchsbaum)
- 04/15 Status Report
National Parks Conservation Association, et al. v. EPA, No. 1:11-cv-1548 (D.D.C.) (Complaint alleging EPA's failure to perform a non-discretionary duty to issue regional haze FIPs for 39 states for which it made a finding of failure to submit, and to take action on 10 regional haze SIPs) (Daniel Schramm, Nora Greenglass)
- 04/16 Answer/Dispositive Motions Due
Animal Legal Defense Fund et.al. v. US, No. 6:18-cv-01860-MC (D. Ore.) (constitutional claims against EPA and other agencies for contributing to and failing to abate climate change) (Daniel Conrad)
- 04/19 U.S. Amicus Brief (if any)
City of Oakland, et al. v. BP plc, et al. (18-16663) (9th Cir.) (appeal from dismissal of public nuisance claims based on harms from climate change brought by the cities of Oakland and San Francisco) (Melina Williams)
- 04/22 Status Report
Sierra Club v. EPA, No. 17-1227 (DC Cir.) (Petition for review of the Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard-Round 2 at 81 Fed. Reg. 45039 (July 12, 2016)) (Andrea Carrillo)
- 04/22 Status Report
American Chemistry Council et al v. EPA, No. 08-1014 (D.C. Cir.) (Petitions for review of 2007 revisions to NSPS for Leak Detection and Repair for refineries and chemical processing plants) (Amy Branning)
- 04/22 Answer
Our Children's Earth Foundation v. EPA, No. 3:18-cv-04765-SK (N.D. CA) (for failure to review and revise certain National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards every eight years) (Daniel Schramm, Jan Tierney, Lea Anderson)

- 04/25 Respondent's Initial Brief Due
Clean Wisconsin, et al. v. EPA, No. 18-1203 (D.C. Cir.) (petition for review of EPA's final action titled "Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards" at 83 Fed. Reg. 25,776 (June 4, 2018)) (Seth Buchsbaum)
- 04/25 Hearing on the Cross Motions
State of California, et al. v. EPA, No. 3:18-cv-03237-SK (N.D. CA) (for failure to enforce the 2016 Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills) (Karen Palmer)
- 04/26 Motion to Govern Further Proceedings
Downwinders at Risk, et al. v. EPA, No. 18-1260 (D.C. Cir.) (petition for review of EPA's final action titled "National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry Residual Risk and Technology Review" at 83 Fed. Reg. 35,122 (July 25, 2018)) (Jonathan Averbach)
- 04/30 Status Report
State of North Dakota v. EPA, No. 15-1381 (DC Cir.) (EGU GHG 111(b) CHALLENGE - LEAD CASE - Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units" at 80 Fed. Reg. 64510 (October 23, 2015) (Scott Jordan)
- 04/30 Status Report
Biogenic CO2 Coalition v. EPA, No. 16-1358 (DC Cir.) (challenge to endangerment finding for GHG from aircraft) (Melina Williams)
- 05/01 Oral Argument (Panel not yet announced)
Sierra Club v. EPA, 18-1038 (D.C. Cir.) petition for review of EPA's final action in In the Matter of PacifiCorp Energy - Hunter Power Plant, Emery County, Utah at 82 Fed. Reg. 58196 (Dec. 11, 2017) (John Krallman)
- 05/03 Oral Argument
Natural Resources Defense Council v. EPA, No. 18-1172 (D.C. Cir.) (petition for review of EPA's notice in the Federal Register titled "Protection of Stratospheric Ozone: Notification of Guidance and a Stakeholder Meeting Concerning the Significant New Alternatives Policy (SNAP) Program" explaining the effect of the Court's partial vacatur of EPA's final rule prohibiting certain uses of hydrofluorocarbons (83 Fed. Reg. 18,431 (April 27, 2018))
- 05/05 Status Report
American Petroleum Institute v. EPA, No. 12-1405 (D.C. Cir.) (Petitions for review of EPA's 2012 oil and gas NESHAP revision based on residual risk and technology review (Amy Branning)
- 05/06 Status Report
State of Texas, et al. v. EPA, No. 17-1021 (D.C. Cir.) (Petition for review of EPA's final action titled "Protection of Visibility: Amendments to Requirements for State Plans," 82 Fed. Reg. 3078 (Jan. 10, 2017)) (Nora Greenglass)

- 05/09 Status Report
Environmental Committee of the Florida Electric Power Coordinating Group, Inc., et al. v. EPA No. 15-1239 (D.C. Cir.) (challenge to 2015 SSM SIP call) (Emily Seidman)
- 05/20 Status Report
Kaiser Aluminum Corporation v. EPA, No. 15-1423 (DC Cir.) (petition for review of EPA's "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production," at 80 Fed. Reg. 56,700 (September 18, 2015)) (Emily Seidman)
- 05/24 EPA's Response and Cross-Motion for Summary Judgment
Citizens For Clean Air, et al. v. EPA, No. 2:18-cv-01803 (W.D. WA) (for failure to make a completeness determination regarding the state of Alaska's failure to timely submit a proposed SIP addressing requirements newly triggered by EPA's designation of the Fairbanks North Star Borough as a 2006 24-hour fine particulate matter "Serious" nonattainment area) (Geoffrey Wilcox)
- 05/28 Status Report
Gas Processors Association v. EPA, No. 11-1023 (D.C. Cir.) (petition for review of EPA's final rule entitled "Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas System" 75 FR 74,458 (Nov. 30, 2010)) (Andrea Carrillo)
- 05/28 Status Report
American Petroleum Institute v. EPA, No. 15-1020 (DC Cir.) (Petition for Review of "Greenhouse Gas Reporting rule: 2014 Revisions and Confidentiality Determinations from Petroleum and Natural Gas Systems," 79 Fed. Reg. 70352 (Nov. 25, 2014) (Andrea Carrillo)
- 05/28 Status Report
Gas Processors Association v. EPA, No. 15-1473 (DC Cir.) (petition for review of EPA's final action entitled "Greenhouse Gas Reporting Rule: 2015 Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems," at 80 Fed. Reg. 64,262 (Oct. 22, 2015)) (Andrea Carrillo)

UPCOMING COURT-ORDERED AND RELATED DEADLINES

CASES and MAJOR MOTIONS AWAITING DECISION

- *State of West Virginia, et al. v. EPA*, No. 15-1363 (D.C. Cir.) CPP CHALLENGE - LEAD CASE - Petition for review of EPA's final rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units." (Scott Jordan) (argued September 27, 2016)
- *United States Steel Corporation v. EPA*, No. 16-2668 (8th Cir.) (Petition for review of EPA's final action titled "Air Plan Approval, Minnesota and Michigan, Revision to 2013 Taconite Federal Implementation Plan Establishing BART for Taconite Plants," 81 Fed. Reg. 21,672 (Apr. 12, 2016)) (Matthew Marks) (argued Nov. 15, 2017)
- *Wisconsin v. EPA*, No. 16-1406 (D.C. Cir.) (petition for review of EPA's Final Rule titled "Cross State Air Pollution Rule Update for the 2008 Ozone NAAQS" 81 Fed. Reg. 74, 504 (October 26, 2016) (Stephanie Hogan, Dan Schramm, Kaytrue Ting) (argued October 3, 2018)
- *Alon Refining Krotz Springs, Inc., et al. v. EPA*, No. 16-1052 (DC Cir.) and *Coffeyville Resources Refining & Marketing, LLC, et al. v. EPA*, No. 17-1044, (D.C. Cir.) (petition for review of EPA's rule entitled EPA; Regulation of Fuels and Additives: Changes to Renewable

- Fuel Standard Program, 75 Fed. Reg. 14, 670 (Mar. 26, 2010)) (challenging RFS point of obligation) (Roland Dubois, Ryland Li) (argued October 5, 2018)
- *State of California v. EPA*, No. 4:18-cv-03237-HSG (N.D. CA.) Hearing on EPA's Motion to Dismiss Plaintiff's Mandatory Duty Suit regarding Municipal Solid Waste Landfills Emission Guidelines based on lack of jurisdiction and failure to state a claim. (Karen Palmer) (hearing October 25, 2018)
 - *Valero Energy Corporation v. EPA*, No. 18-1028 (D.C. Cir.) (petition for review of EPA's final action entitled Periodic Reviews for the Renewable Fuel Standard Program, notice of which was published in the Federal Register at 82 Fed. Reg. 58; 364 (Dec. 12, 2017)) (Ryland Li) (argued November 08, 2018)
 - *State of New York, et al. v. EPA*, No. 17-1273 (D.C. Cir.) (petition for review of EPA's final action "Response to the December 9, 2013, Clean Air Act Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont," 82 Fed. Reg. 51,238 (November 3, 2017)) (Daniel Schramm) (argued November 28, 2018)
 - *Sierra Club v. EPA*, No. 16-1158 (D.C. Cir.) (Petition for judicial review of monitoring rule revisions, 81 Fed. Reg. 17,248 (Mar. 28, 2016) (Jonathan Skinner-Thompson) (argued December 10, 2018)
 - *Murray Energy Corporation v. EPA*, No. 15-1385 (DC Cir.) (Petition for review of EPA's final action titled "National Ambient Air Quality Standards for Ozone" at 80 Fed. Reg. 65292 (October 26, 2015)) (Melina Williams) (argued December 12, 2018)
 - *American Fuel & Petrochemical Manufacturers, et al. v. EPA*, No. 17-1258 (D.C. Cir.) (petition for review of EPA's final action titled "Renewable Fuel Standard Program: Standards for 2018 and Biomass-Based Diesel Volume for 2019" at 82 Fed. Reg. 58,486-58,527 on December 12, 2017) (Ryland Li) (argued February 20, 2019)
 - *Mexichem Fluor; Inc., et al. v. EPA*, No. 17-1024 (D.C. Cir.) (petitions for review of the 2016 Section 612 Significant New Alternatives Policy ("SNAP") Rule which; among other things; changed the listing of certain high global warming potential substitutes for ozone-depleting substances from acceptable to unacceptable) (Jan Tierney) (argued March 8, 2019)